

I. Rejections under 35 USC §112

Claims 62 stands rejected under 35 USC § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the interest of moving the case to allowance, claim 62 has been cancelled without prejudice or disclaimer of the subject matter contained therein, rendering the rejection moot. Accordingly, it is respectfully requested that the rejection be withdrawn.

II. Double Patenting Rejection

Claims 1, 3-8, 10, 12-17 and 95-97 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-71 of U.S. Patent No. 5,439,760 to Howard et al. A terminal disclaimer overcoming the rejection has been filed concurrently herewith. Accordingly, it is respectfully requested that the rejection be withdrawn.

III. Rejections under 35 USC §103

The pending claims were variously rejected under 35 USC § 103(a) based upon U.S. Patent No. 5,008,165 to Schmode ('165), U.S. Patent No. 4,539,271 to Crabtree ('271), U.S. Patent No. 4,830,940 to Keister et al. (940), U.S. Patent No. 5,439,760 to Howard et al. ('760) and U.S. Patent No. 5,549,717 to Takeuchi et al. ('717).

As was previously pointed out in the Response to Office Action of February 7, 2001 mailed by Applicant on May 8, 2001, the present application is a continuation-in-part of U.S. Patent No. 6,051,038 to Howard et al., which itself is a divisional application of U.S. Patent No. 5,439,760 (the '760 patent).

On page 9 of the Office Action mailed October 29, 2001, the Examiner responds by stating that the '760 patent does not teach the feature, recited in the claims of the present application, that the anode current collector is shorter than the alkali metal strip. However, it is respectfully asserted that the '760 patent does teach this feature. For example, FIG. 1 of the '760 patent clearly shows the anode current collector 5 (cross-hatched portion) being shorter in length than the alkali metal layer 10 (noncross-hatched

15?

portion). Therefore, it is respectfully asserted that since the '760 patent teaches that the anode current collector is shorter than the alkali metal strip, the Examiner's assertion that the instant claims are not entitled to the filing date of the '760 patent is in error, and therefore reliance on the parent '760 patent for teaching the claimed invention is erroneous. In addition, since the instant claims are entitled to the filing date of the '760 patent, the '717 patent is not applicable because it is antedated by the '760 patent.

Furthermore, neither the '165 patent, the '271 patent, or the '940 patent, alone or in combination, teach or suggest the anode current collector being shorter in length than the elongated strip of alkali metal, as set forth in the claims of the present application. Accordingly, there are no teachings of the present invention in the prior art and it is therefore respectfully requested that the rejections be withdrawn.

IV. Conclusion

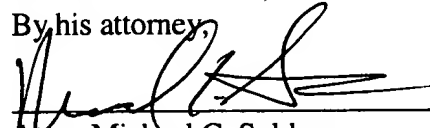
There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters.

Respectfully submitted,

William G. Howard,
By his attorney,



Atty: Michael C. Soldner
Reg. No. 41,455
MEDTRONIC, INC.
7000 Central Avenue N.E.
Minneapolis, Minnesota 55432
(763) 514-4842

Date: January 22, 2002